

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

LINDA M. KNIGHTEN,

Plaintiff,

v.

OMNI HOTEL, et al.,

Defendants.

No. C 12-2296 CW

ORDER DENYING
MOTION FOR LEAVE
TO FILE
SUPPLEMENTAL
DECLARATION
(Docket No. 42)
AND CONTINUING
MOTION HEARING

On May 1, 2013, Plaintiff Linda Knighten moved for leave to file a supplemental declaration in opposition to Defendant Omni Hotel's motion for summary judgment. Plaintiff has not explained why she failed to file this evidence with her opposition brief, which was submitted two days earlier and was itself filed four days late. Plaintiff's motion also failed to acknowledge that she never previously disclosed the roughly fifty pages of documents attached to her supplemental declaration, even though she was required to do so under Federal Rule of Civil Procedure 26(a) as part of her initial disclosures.¹ See Declaration of Lisa van Krieken, Ex. B, E-Mail Exchange Between R. Rogers & J.C. Lee.

Allowing Plaintiff to submit previously undisclosed evidence at this late stage -- a full month after fact discovery closed and more than two weeks after Defendant filed its opening summary

¹ Plaintiff filed an unauthorized reply in support of her administrative motion in which she asserts (without a supporting declaration) that she was prevented from meeting her discovery obligations by the large volume of documents she needed to review. This does not excuse Plaintiff's failure to comply with Rule 26. If Plaintiff needed additional time to review and disclose documents, she should have notified Defendant and moved for an extension of the fact discovery deadline.

1 judgment brief -- would prejudice Defendant. Accordingly,
2 Plaintiff's motion is DENIED.

3 In addition, because Plaintiff filed her opposition brief
4 late, Defendant's reply brief is now due May 6, 2013 and the
5 hearing on Defendant's motion for summary judgment is CONTINUED to
6 2:00 p.m. on May 23, 2013.

7 IT IS SO ORDERED.

8
9 Dated: 5/2/2013


CLAUDIA WILKEN
United States District Judge